

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
JAN 31 2018
Clerk, U.S. Courts
District Of Montana
Missoula Division

KERMIT TY POULSON,

Plaintiff,

vs.

KENNETH R. PARK,

Defendant.

CV 17-143-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendations in this case on October 16, 2017, recommending that this matter be dismissed for both failure to state a claim upon which relief may be granted and for seeking monetary relief against a defendant who is immune from such relief. (Doc. 3 at 5.) Plaintiff Kermit Ty Poulson ("Poulson") timely filed objections to the Findings and Recommendations. (Doc. 9.) Consequently, Poulson is entitled to a de novo review of those findings and recommendations to which he specifically objects. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313

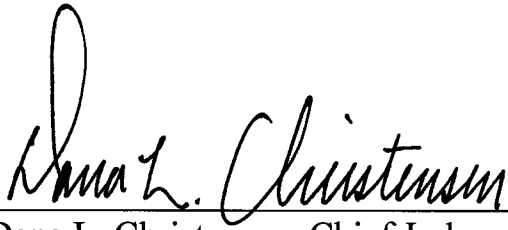
(9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Judge Lynch concluded, and this Court agrees, that the conduct of Defendant Kenneth R. Park (“Park”) upon which Poulson predicates both his federal and state claims, taken as true, fall under the umbrella of absolute immunity afforded to Park as a prosecutor. (Doc. 3 at 4.) Further, Poulson’s allegation of slander fails to state a claim upon which relief may be granted as the allegation does not include slander as defined by Montana law. (Doc. 3 at 4–5.) Consequently, Poulson’s case should be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and (iii). Poulson’s petulant objection fails to present any new evidence or law supporting his claims, despite his superficial claims to the contrary. (Doc. 9 at 1–3.) Having failed to specifically object to any of Judge Lynch’s Finding and Recommendations, this Court reviews the record for clear error. *See McDonnell Douglas Corp.*, 656 F.2d at 1313. Finding none,

IT IS ORDERED that Judge Lynch’s Findings and Recommendations (Doc. 3) are ADOPTED IN FULL and this case is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and (iii).

IT IS FURTHER ORDERED that the Clerk of Court will enter judgment in favor of Defendant and against Plaintiff in this case.

DATED this 31st day of January, 2018.



Dana L. Christensen, Chief Judge
United States District Court